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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,832	02/14/2001	Theodore Gordon Rogers	02867-0120 (42411-212409)	9598
7590	06/16/2004		EXAMINER	
Theodore Gordon Rogers 11687 Cramer Creek Clinton, MT 59825			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/782,832

**Applicant(s)**

ROGERS, THEODORE GORDON

**Examiner**

Stephen Gravini

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 April 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20010214.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Objections***

Claim 22 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can only depend upon another claim in the alternative. In this case that claim depends upon more than one claim and not in alternative format as required under current Office practice. See MPEP § 608.01(n). Accordingly, the claim 22 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogram (US 5,822,737). Ogram is considered to disclose a method comprising:

an order step wherein, after communicating with a server system through a merchant website, the user selects one or more goods to purchase, the user places an order for selected goods via a user terminal (column 5 lines 5-33);

an assembly step, wherein the order is communicated to an assembling means via a merchant interface unit, prompting the assembling means to take the goods from the merchant's inventory and assemble the order (column 5 lines 34-37); and

a delivery step, wherein the order is placed by the assembling means in a storage unit for the user to pick up (column 7 lines 21-29). Ogram is considered to also teach the claimed location and time request (column 7 line 27), user merchant interface time and storage information (column 7 line 45), order information display (column 6 line 35), storage and time assembly assignment (column 6 line 17), and security code (column 7 line 37).

Claims 7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Chelliah et al. (US 5,710,887). Chelliah is considered to disclose a system comprising:

- a server system **10** which is coupled to a storage device system terminal **16**;
- one or more storage units contained in a storage device **14**, the one or more units being coupled to the storage device system terminal and to the server system;
- a user terminal **13**, which is coupled to the server system; and
- a merchant interface terminal **20**, which is coupled to the server system. Chelliah is considered to also disclose the claimed print order copy (column 18 line 24) and order display (column 6 line 1).

Claims 11 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimi (EP 0 791 901). Yoshimi is considered to disclose a device comprising:

- a user interface **1, 2, 3, or 4** ;
- data entry means **6** coupled to the user interface for communicating data to the user;

a program module which enables the user to

select goods for purchase from the inventory database of the merchant (column 1 lines 10-15),

select a storage device containing at least one storage unit using a storage device reservation system (column 3 lines 2-21),

select a time for the goods to be placed in a storage unit contained in a storage device using a storage device reservation system (column 3 lines 26-31),

pay for the goods by inputting payment information through the data entry means (column 3 lines 38-42); and

a processing unit 7 to execute instructions of the program module. Yoshimi is considered to also disclose the claimed keyboard (column 5 line 51 wherein the disclosed cryptokey is considered patentably equivalent to the claimed keyboard because both serve to allow a user to send a command to a computer) and checking account information (column 1 line 19).

Claims 16-19 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Golden et al. (US 5,761,648). Golden is considered to disclose a system comprising:

a storage device system terminal 1;

one or more storage units 39 or 41 coupled to the storage device system terminal;

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a server system **33 & 44** which is coupled to the storage device system terminal;  
a merchant interface unit **2** coupled to the server system; and  
a user terminal **3** which is coupled to the server system or alternatively  
one or more storage units **2 or 7**;  
a storage device system terminal **3** which is coupled to the one or more storage  
units; and

an indicator means **4** coupled to the server system or to the storage device  
system terminal for indicating information about the status of the storage unit. Golden is  
considered to also disclose the claimed internet web site access (column 1 line 9  
wherein the disclosed online network implies the claimed internet web site), empty  
status information unit (column 2 line 60 wherein the disclosed consumer data entry is  
considered to imply the claimed empty status information because entering data implies  
that the entry is empty as claimed), interface empty transmission (column 2 line 6),  
empty storage transmission (column 2 line 5), and status information indicating means  
(column 4 line 52).

Claims 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by  
McCarty et al. (US 5,946,660). McCarty is considered to disclose a method comprising:  
a time interval query step where a user queries a server system for a chosen  
time interval during which the user wants access to the storage unit (column 4 lines 15-  
51);

an availability query step wherein the server system communicates with a storage device system terminal to determine if any storage units are available during the chosen time interval (column 5 lines 19-67); and

an assign step, wherein the storage device system, after communicating with the server system that a storage unit is available for the chosen time interval, assigns a combination to the storage unit available for the assigned time interval, and communicates the location of the assigned storage unit and the assigned time interval to the user wherein the availability query step further provides that if the storage device system terminal communicates to the server system that there are not any storage devices available for the chosen time interval, the time interval query step is repeated, requesting the user to enter a time interval Other than the previously entered chosen time interval (column 10 lines 10-67).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chelliah in view of McCarty. Chelliah is considered to disclose the claimed invention as discussed in the anticipatory rejection above except for the claimed climate control. McCarty is considered to teach the claimed feature of climate control at column 7 lines 2-25. It would have been obvious to one skilled in the art to combine the teachings of Chelliah with the climate control feature of McCarty for the purpose of having storage devices for consumers under climate control such that a consumer good or service is not climate control adversely affected.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimi in view of Chelliah. Yoshimi is considered to disclose the claimed invention as discussed in the anticipatory rejection above except for the claimed touch screen. Chelliah is considered to teach the claimed feature of a touch screen at column 6 line 32. It would have been obvious to one skilled in the art to combine the teachings of Yoshimi with the touch screen feature of Chelliah for the purpose of having data entry means for consumers for goods or services in a manner other than a keyboard.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimi in view of Ogram. Yoshimi is considered to disclose the claimed invention as discussed

in the anticipatory rejection above except for the claimed touch screen. Ogram is considered to teach the claimed feature of a parcel send storage unit at column 5 lines 5-53. It would have been obvious to one skilled in the art to combine the teachings of Yoshimi with the parcel send storage unit feature of Ogram for the purpose of having storage means for consumers for goods or services consistent with parcel distribution of those goods or services, or more commonly known as mail boxes or post office boxes.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Porter (US 5,774,053) is considered to disclose a secure method of merchant user transactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W Stamber can be reached on 703 305 8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smg  
June 9, 2004

*Steve Gruen*